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and thereafter he was asked, "Give full particulars of every illness you have had since childhood, and the name of every physician who has ever attended you or prescribed for you." Held, that the latter question comprehended the first, and called for particulars under the former categorical answer, and was a sufficient prosecution of the inquiry upon which the insurer was put by the applicant's answer to the former question, and that the applicant's failure to communicate to the insured under this last question the facts material to the risks which were known to him and which would have caused his rejection avoided the policy.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. §§ 681-690; Dec. Dig. § 291.* 9 Va.-W. Va. Enc. Dig. 352.]

Error to Circuit Court of City of Richmond.

Action by Lemuella Talley against the Metropolitan Life Insurance Company. Judgment for defendant, and the plaintiff brings a writ of error. Affirmed.

L. O. Wendenburg, for plaintiff in error.

B. Rand. Wellford, for defendant in error.

SOUTHERN RY. CO. v. SATTERFIELD'S ADM'X.

Jan. 12, 1911.

[69 S. E. 938.]

Master and Servant (§ 243*)—Injuries—Contributory Negligence.—Defendant railroad company's rules required its engineers in approaching a siding to be especially careful as to the positions of switches, and provided that they would be held accountable for passing a switch which was not in the right position for them, and that the absence of switch lights should be considered a danger signal, and that a signal imperfectly displayed or its absence at a place where it was usually shown should be regarded as a stop signal. Held, that whether a switch in yards through which an engineer ran showed a red light, in indicating that the switch was thrown for the siding, requiring him to stop, or, showed no light at all, the engineer was bound to stop under the rules, and he was also bound to stop if the red light was not fully shown to the approaching train because of the switch lever not having been firmly pressed into position, so that he was guilty of negligence in either event, preventing recovery for his death by running through an open switch under such circumstances.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. §§ 766, 768; Dec. Dig. § 243.* 9 Va.-W. Va. Enc. Dig. 710, 713.]

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

Error to Circuit Court, Pittsylvania County.

Action by Satterfield's administratrix against the Southern Railway Company. Judgment for plaintiff, and defendant brings error. Reversed.

Wm. Leigh, for plaintiff in error.

Pcatross & Harris, for defendant in error.

HOLDSWORTH *v.* C. W. CROWDER & BRO.

Jan. 12, 1911.

[69 S. E. 935.]

Appeal and Error (§ 34*)—Decisions Reviewable—Nature of Controversy.—An action for the value of food products, improperly condemned by the chief food inspector of a city acting under an ordinance, involves only a pecuniary matter, where the trial court charges that the ordinance relied on is valid, and where no exception is taken thereto; and where the damages recovered against the inspector are less than \$300 the Supreme Court of Appeals has no jurisdiction, on writ of error, to review the judgment.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. § 111; Dec. Dig. § 34.* 8 Va.-W. Va. Enc. Dig. 477.]

Error to Law and Equity Court of City of Richmond.

Action by C. W. Crowder & Bro. against William T. Holdsworth. There was a judgment for plaintiffs, and defendant brings error. Dismissed.

H. R. Pollard and Gco. Wayne Anderson, for plaintiff in error.

J. Kent Raveley, for defendants in error.

WRIGHT et al. *v.* COLLINS' ADM'R.

Jan. 12, 1911.

[69 S. E. 942.]

1. Trial (§ 25)—Right to Open and Close—Affirmative of Issues.—Where defendant relies on a plea putting in issue plaintiff's demand and casting on him the burden of proof, plaintiff has the right to open and close, and it is only when defendant pleads affirmative matter alone, the proof of which rests on him, that he can claim the right to open and close, so that where defendant pleaded the general issue, as well as a counterclaim he is not entitled to open and close.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 47, 49; Dec. Dig. § 25.* 10 Va.-W. Va. Enc. Dig. 591.]

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.